



March 25, 2005

ENGROSSED SENATE BILL No. 536

DIGEST OF SB 536 (Updated March 24, 2005 2:23 pm - DI 103)

Citations Affected: IC 5-28; IC 6-3.1; IC 22-4; noncode.

Synopsis: Skills 2016 training fund. Establishes a life long learning tax credit program. Requires the department of workforce development (DWD) to conduct a study of the impact of the life long learning tax credit program. Transfers 0.5% in the state fiscal year beginning July 1, 2005, and 1% percent thereafter of the money in the skills 2016 training fund (fund) to the state general fund to replace money lost from granting life long learning tax credits and from administrative fees retained by the DWD. Transfers the fund to the economic development corporation (corporation). Requires the corporation to enter into an agreement with the DWD to administer the fund. Requires the secretary of commerce to allocate the money in the fund to employers and consortiums for worker training grants, after considering recommendations made by DWD. Requires that Ivy Tech State College be given special consideration to be the provider of training obtained through the fund when: (1) Ivy Tech courses meet the needs of an employer or consortium; and (2) Ivy Tech is the most cost effective provider. Establishes a sunset for the fund of December 31, 2008. Abolishes the incumbent workers training board. Repeals obsolete statutes concerning the fund.

Effective: Upon passage; July 1, 2005.

Clark, Drozda

(HOUSE SPONSOR — BORROR)

January 20, 2005, read first time and referred to Committee on Economic Development and Technology.

February 22, 2005, amended, reported favorably — Do Pass.

February 28, 2005, read second time, amended, ordered engrossed.

March 1, 2005, engrossed. Read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

March 10, 2005, read first time and referred to Committee on Commerce, Economic Development and Small Business.

March 24, 2005, amended, reported — Do Pass.

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ES 536—LS 7955/DI 102+



March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 536

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-27 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 27. Skills 2016 Training Fund**

5 **Sec. 1. This chapter expires December 31, 2008.**

6 **Sec. 2. As used in this chapter, "fund" refers to the skills 2016**
7 **training fund established by section 3 of this chapter.**

8 **Sec. 3. (a) The skills 2016 training fund is established to do the**
9 **following:**

10 (1) **Administer the costs of the skills 2016 training program**
11 **established under IC 22-4-10.5.**

12 (2) **Undertake any program or activity that furthers the**
13 **purposes of IC 22-4-10.5.**

14 (3) **Refund skills 2016 training assessments erroneously**
15 **collected and deposited in the fund.**

16 **(b) The money in the fund shall be allocated as follows:**

17 (1) **An amount to be determined annually shall be set aside for**

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ES 536—LS 7955/DI 102+



the payment of refunds from the fund.

(2) The remainder of the money in the fund shall be allocated to employers or consortiums for incumbent worker training grants that enable workers to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.

(c) Special consideration shall be given to the state educational institution established under IC 20-12-61 to be the provider of the training funded under this chapter whenever the state educational institution:

(1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and

(2) is the most cost effective provider.

(d) The secretary of commerce shall allocate the money in the fund in accordance with subsections (b) and (c), after considering recommendations made by the department of workforce development.

(e) The corporation shall enter into an agreement with the department of workforce development for the department of workforce development to administer the fund using money appropriated from the fund.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest and penalties collected.

(i) Any balance in the fund does not lapse but is available continuously to the corporation for expenditures for the program established under IC 22-4-10.5 consistent with this chapter, after considering recommendations made by the department of workforce development.

SECTION 2. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Life Long Learning Tax Credit

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1 **Sec. 1. As used in this chapter, "account" refers to an account**
 2 **that qualifies as a life long learning account under this chapter.**

3 **Sec. 2. As used in this chapter, "credit" refers to a life long**
 4 **learning tax credit granted under this chapter against state tax**
 5 **liability.**

6 **Sec. 3. As used in this chapter, "department" refers to the**
 7 **department of workforce development.**

8 **Sec. 4. As used in this chapter, "eligible education expense"**
 9 **means a payment for education, including tuition and fees and**
 10 **similar payments, books, supplies, equipment, and tools or supplies**
 11 **that may be retained by the employee after completion of a course**
 12 **of instruction, other than the following:**

13 (1) **Meals, lodging, or transportation.**

14 (2) **Any course or other education involving sports, games, or**
 15 **hobbies.**

16 **Sec. 5. As used in this chapter, "eligible employee" means the**
 17 **following:**

18 (1) **A full-time employee of a participating employer.**

19 (2) **A part-time employee of a participating employer, if the**
 20 **part-time employee has the part-time employee's principal**
 21 **place of business with the participating employer in Indiana**
 22 **and the participating employer elects in the participating**
 23 **employer's application to the department under this chapter**
 24 **to include part-time employees in the participating employer's**
 25 **plan.**

26 **Sec. 6. As used in this chapter, "full-time employee" means an**
 27 **individual who:**

28 (1) **is employed for consideration for at least thirty-five (35)**
 29 **hours each week or who renders any other standard of service**
 30 **generally accepted by custom or specified by contract as**
 31 **full-time employment; and**

32 (2) **has the individual's principal place of employment in**
 33 **Indiana with a participating employer.**

34 **Sec. 7. As used in this chapter, "participating employer" means**
 35 **a corporation, person, or pass through entity that:**

36 (1) **employs at least one (1) eligible employee; and**

37 (2) **is selected under this chapter to participate in a pilot life**
 38 **long learning tax credit program under this chapter.**

39 **Sec. 8. As used in this chapter, "pass through entity" means a:**

40 (1) **corporation that is exempt from the adjusted gross income**
 41 **tax under IC 6-3-2-2.8(2);**

42 (2) **partnership;**

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- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 9. As used in this chapter, "plan" refers to a life long learning plan that provides for the payment of eligible education expenses through an account.

Sec. 10. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 11. The pilot life long learning tax credit program is established to encourage life long learning practices by eligible employees. The department shall administer the program.

Sec. 12. (a) An eligible employee that makes an employee contribution to an account is eligible for a credit in a taxable year against the employee's state tax liability in the taxable year.

(b) The amount of the credit is equal to the least of the following:

- (1) The employee contribution made by an eligible employee to the account in the taxable year.
- (2) Five hundred dollars (\$500).
- (3) The amount of the credits allocated by the department to the eligible employee for the taxable year.

Sec. 13. (a) A participating employer that makes an employer matching contribution to an account is eligible for a credit in a taxable year against the participating employer's state tax liability in the taxable year.

(b) The amount of the credit is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the lesser of the following for each account:

- (A) The participating employer contribution made to the account of an eligible employee in the taxable year.
- (B) Five hundred dollars (\$500).

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Determine the lesser of the following:

- (A) The STEP TWO amount.
- (B) The amount of the credit allocated by the department

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to the participating employer for the taxable year.

Sec. 14. (a) If:

(1) a pass through entity does not have state income tax liability against which the credit provided by this chapter may be applied; and

(2) the pass through entity would be eligible for a credit under this chapter if the pass through entity were a taxpayer; a shareholder, partner, or member of the pass through entity is entitled to a credit under this chapter.

(b) Subject to this chapter, the amount of the credit to which a shareholder, partner, or member is entitled is equal to:

(1) the credit determined for the pass through entity for the taxable year as if the pass through entity were a taxpayer with state tax liability in the amount of the credit; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 15. (a) If the amount of the credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to subsequent taxable years until the entire credit is used. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 16. To receive the credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the information that the department of state revenue determines is necessary for the department of state revenue to determine whether the taxpayer is eligible for the credit.

Sec. 17. To qualify as a life long learning plan under this chapter, the plan must meet all of the following criteria:

(1) Be in writing.

(2) Cover at least all full-time employees of the participating employer and, if the participating employer elects to cover part-time employees under the plan, all part-time employees.

(3) Provide for the establishment of an account for each eligible employee to which:

(A) an eligible employee makes contributions for the

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1 payment of eligible education expenses; and

2 (B) the participating employer makes matching
3 contributions on a dollar for dollar basis for the purpose of
4 paying eligible education expenses.

5 However, the plan may limit the maximum amount that the
6 participating employer must match. The limitation must
7 uniformly apply to all full-time employees of the employer. If
8 the participating employer elects to have part-time employees
9 participate in the plan, the participating employer may
10 impose a different uniform limitation for part-time
11 employees.

12 (4) Subject to section 18 of this chapter, provide that the
13 account may be used only to pay eligible education expenses
14 incurred by or on behalf of an eligible employee for education
15 selected at the sole discretion of the eligible employee.

16 (5) Provide that the availability of the plan does not reduce or
17 substitute for any other education program provided by the
18 participating employer, including the provision, by a
19 participating employer, of courses of instruction for the
20 participating employer's eligible employees (including books,
21 supplies, and equipment).

22 (6) Provide procedures for dissemination of information about
23 the plan, including the federal and state income tax
24 consequences of the plan.

25 (7) Provide for reporting to the department of state revenue
26 of the information prescribed by the department of state
27 revenue.

28 (8) Provide procedures for the allocation of credits certified
29 by the department for the participating employer's eligible
30 employees among the participating employer's eligible
31 employees.

32 (9) Be certified by the department as a plan.

33 Sec. 18. (a) To qualify as a life long learning account under this
34 chapter, the account must meet all the following criteria:

35 (1) Be established and administered in accordance with a
36 plan.

37 (2) Subject to this section, be used only to pay eligible
38 education expenses incurred by or on behalf of an eligible
39 employee for education selected at the sole discretion of the
40 eligible employee.

41 (3) Be held by a trustee or fiduciary, including the treasurer
42 of state, approved by the department.

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(b) Money in an account that is contributed by an eligible employee is held in trust for the eligible employee. An eligible employee may withdraw the eligible employee's contribution to the account at any time for any purpose. However, if the amount is not withdrawn to:

(1) pay eligible education expenses; or

(2) transfer the money in the manner prescribed by the department of state revenue to the account of another participating employer;

the individual forfeits any tax benefit that the individual received under this chapter for the amount withdrawn. The department of state revenue shall prescribe a method for recovery of the tax benefit in the taxable year in which the event causing the forfeiture of the tax benefit occurs.

(c) An account may consist of gifts to an account in addition to contributions by an eligible employee or a participating employer. However, a gift to an account may be used only to pay eligible education expenses.

(d) Transfer of an unused employer contribution as an employer contribution to another account does not result in forfeiture of a tax benefit received under this chapter. However, the employer is not eligible for an additional credit for the amount transferred.

Sec. 19. A taxpayer that receives a credit for a contribution to an account is not entitled to a separate deduction for an eligible education expense in the taxable year that the eligible education expense is paid from the account. If the taxpayer deducted the eligible education expense in computing for federal income tax purposes:

(1) federal adjusted gross income in the case of an individual; or

(2) in the case of taxpayers other than an individual:

(A) federal taxable income (as defined in Section 63 of the Internal Revenue Code) in the case of corporations;

(B) federal life insurance company taxable income (as defined in Section 801 of the Internal Revenue Code) in the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law;

(C) federal taxable income (as defined in Section 832 of the Internal Revenue Code) in the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law; or

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1 (D) federal taxable income (as defined for trusts and
 2 estates in Section 641(b) of the Internal Revenue Code) in
 3 the case of trusts and estates;
 4 the taxpayer shall add the amount of the deduction back in
 5 determining state adjusted gross income under IC 6-3-1-3.5 and
 6 IC 6-5.5-1-2.

7 Sec. 20. The department shall establish a program to provide
 8 information to participating employers and eligible employees
 9 about the life long learning tax credit program established by this
 10 chapter.

11 Sec. 21. (a) The department shall establish a program to certify
 12 participating employer and eligible employee contributions to an
 13 account as eligible for a credit. The program must provide that the
 14 participating employer applies for the credits on behalf of the
 15 participating employer and the participating employer's eligible
 16 employees. The program may permit an application to be made
 17 that covers more than one (1) taxable year.

18 (b) The total amount of credits approved in a state fiscal year
 19 may not exceed the amount transferred in the state fiscal year from
 20 the skills 2016 training fund to the state general fund under
 21 IC 22-4-24.5-1(c), less any administrative fees retained by the
 22 department under subsection (e). Qualifying applicants for a credit
 23 that apply to the department in the manner and in the form
 24 prescribed by the department shall be certified for a credit in the
 25 amount that the applicant estimates will be contributed to the
 26 accounts of eligible employees by lottery conducted by the
 27 department until the maximum amount of credits allowed under
 28 this section for a state fiscal year has been allocated among
 29 qualifying applicants. The certification may cover more than one
 30 (1) taxable year and need not match the state fiscal year of the
 31 transfer from the skills 2016 training fund to the year the credit is
 32 taken. However, the department may provide a procedure for an
 33 applicant that is denied a tax credit solely as a result of the cap
 34 imposed by this subsection to be given priority in the award of a
 35 credit in a subsequent state fiscal year. An award of the credit must
 36 indicate the part of the award that is for participating employer
 37 contributions and the part of the award that is available to eligible
 38 employees for eligible employee contributions.

39 (c) The certification of a credit under this section applies only to
 40 contributions made after the date of the certification.

41 (d) If the credits allocated to a participating employer or an
 42 eligible employee are not used as provided in the certification, the

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department may reallocate the unused credits to another qualified applicant in the order determined by the department.

(e) The department may retain from the amount transferred in a state fiscal year from the skills 2016 training fund to the state general fund under IC 22-4-24.5-1(c) an administrative allowance to reimburse the department for administering the pilot life long learning tax credit program.

Sec. 22. (a) The department shall provide for a study of the pilot life long learning tax credit program established by this chapter. The evaluation must include a fiscal analysis of the program, including an assessment of the effectiveness of the provisions of this chapter to:

- (1) retain jobs;
- (2) increase income; and
- (3) increase the tax base.

The study must measure the extent to which life long learning practices are increased. The analysis may include a review of the practices and experiences of other states or political subdivisions with laws similar to this chapter.

(b) The department shall require employers applying for a credit under this chapter to provide the information that the department determines is necessary to carry out the study required by this section.

(c) The department shall report to the legislative council, not later than November 1 of each year in an electronic format under IC 5-14-6, on the progress of its study.

Sec. 23. Subject to the approval of the budget agency, the department may receive and accept gifts and other donations from any public or private source in its administration of the program.

SECTION 3. IC 22-4-10.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. This chapter expires December 31, 2008.

SECTION 4. IC 22-4-10.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The skills 2016 training program is to be administered by the ~~department of workforce development~~ **Indiana economic development corporation** in the manner prescribed by ~~IC 22-4-18.3~~ **IC 5-28-27**.

(b) The **Indiana economic development corporation** shall enter into an agreement with the department of workforce development for the department of workforce development to administer the fund.

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1 SECTION 5. IC 22-4-10.5-7 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~(a) After making~~
 3 ~~the deposit required by subsection (b);~~ The department shall deposit
 4 skills 2016 training assessments paid to the department under this
 5 chapter in the skills 2016 training fund established by ~~IC 22-4-24.5-1.~~
 6 **IC 5-28-27-2.**

7 ~~(b) After June 30, 2003; Unless the board approves a lesser amount;~~
 8 ~~the department annually shall deposit the first four hundred fifty~~
 9 ~~thousand dollars (\$450,000) in skills 2016 training assessments paid to~~
 10 ~~the department under this chapter in the special employment and~~
 11 ~~training services fund established by IC 22-4-25-1 for the training and~~
 12 ~~counseling assistance described in IC 22-4-25-1(f).~~

13 SECTION 6. IC 22-4-24.5-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The skills 2016
 15 training fund is established to do the following:

16 (1) Administer the costs of the skills 2016 training program
 17 established by IC 22-4-10.5.

18 (2) Undertake any program or activity that furthers the purposes
 19 of IC 22-4-10.5.

20 (3) Refund skills 2016 training assessments erroneously collected
 21 and deposited in the fund.

22 (b) ~~Fifty-five~~ **Fifty-four** percent ~~(55%)~~ **(54%)** of the money in the
 23 fund shall be allocated to the state educational institution established
 24 under IC 20-12-61. The money so allocated to that state educational
 25 institution shall be used as follows:

26 (1) An amount to be determined annually shall be allocated to the
 27 state educational institution established under IC 20-12-61 for its
 28 costs in administering the training programs described in
 29 subsection (a). However, the amount so allocated may not exceed
 30 fifteen percent (15%) of the total amount of money allocated
 31 under this subsection.

32 (2) After the allocation made under subdivision (1), fifty percent
 33 (50%) shall be used to provide training to participants in joint
 34 labor and management building trades apprenticeship programs
 35 approved by the United States Department of Labor's Bureau of
 36 Apprenticeship Training.

37 (3) After the allocation made under subdivision (1), fifty percent
 38 (50%) shall be used to provide training to participants in joint
 39 labor and management industrial apprenticeship programs
 40 approved by the United States Department of Labor's Bureau of
 41 Apprenticeship Training.

42 (c) **One percent (1%) of the money in the fund shall be**

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transferred to the state general fund to replace revenue lost as the result of life long learning credits granted under IC 6-3.1-29 plus any administrative fees retained by the department of workforce development under IC 6-3.1-29-21(e).

(c) (d) The remainder of the money in the fund shall be allocated as follows:

(1) An amount to be determined annually shall be set aside for the payment of refunds from the fund.

(2) The remainder of the money in the fund after the allocations provided for in ~~subsection~~ **subsections (b) and (c)** and subdivision (1) shall be allocated to other incumbent worker training programs.

(d) (e) The fund shall be administered by the board. However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

(e) (f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) (g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) (h) The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected.

(h) (i) All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

(i) (j) Not later than April 30 each year, the department shall prepare an annual report that shows the amount of unobligated money in the fund on that date.

(j) (k) The incumbent workers training board may reallocate the unobligated money shown in the annual report required by subsection (i) (j) in accordance with subsections (b) and ~~(c)(2)~~ **(d)(2)**.

(k) (l) Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.

SECTION 7. IC 22-4-32-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) At any time

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within four (4) years after the date upon which any contributions, skills 2016 training assessments under IC 22-4-10.5-3, or interest thereon were paid, an employing unit which has paid such contributions, skills 2016 training assessments, or interest thereon may make application for a refund of such contributions, skills 2016 training assessments, or an adjustment thereon in connection with subsequent contribution payments or skills 2016 training assessments. The commissioner shall thereupon determine whether or not such contribution or skills 2016 training assessment, or interest or any portion thereof was erroneously paid or wrongfully assessed and notify the employing unit in writing of its decision.

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) The commissioner may grant such application in whole or in part and may allow the employing unit to make an adjustment thereof without interest in connection with subsequent contribution payments or skills 2016 training assessments. If such adjustment cannot be made, the commissioner may refund such amounts, without interest, from the fund. For like cause and within the same period, adjustments or refund may be made on the commissioner's own initiative. Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by ~~IC 22-4-24.5-1~~. **IC 5-28-27-2.**

(d) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-4-18.3; IC 22-4-24.5-1; IC 22-4.5-2-5; IC 22-4.5-3-4.

SECTION 9. [EFFECTIVE UPON PASSAGE] **On the effective date of this act:**

(1) the skills 2016 training fund; and

(2) all the money in the skills 2016 training fund;

established by IC 22-4-24.5-1 (repealed by this act) are transferred to the Indiana economic development corporation and deposited in the skills 2016 training fund established by IC 5-28-27-2, as added

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1 by this act, and administered by the department of workforce
2 development under an agreement between the Indiana economic
3 development corporation and the department of workforce
4 development.

5 SECTION 10. [EFFECTIVE JULY 1, 2005] IC 6-3.1-29, as added
6 by this act, applies only to taxable years beginning after December
7 31, 2005.

8 SECTION 11. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 536, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 6 with "[EFFECTIVE UPON PASSAGE]".

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 1. This chapter expires December 31, 2008."

Page 1, line 5, delete "Sec. 1." and insert **"Sec. 2."**

Page 1, line 6, delete "section 2" and insert **"section 3"**.

Page 1, line 7, delete "Sec. 2." and insert **"Sec. 3."**

Page 1, line 16, after "annually" insert **"by the Indiana economic development corporation"**.

Page 2, line 2, delete "employers, educational institutions," and insert **"employers"**.

Page 2, line 2, after "for" insert **"incumbent"**.

Page 2, line 3, delete "grants." and insert **"grants that enable workers to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness."**

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"(c) Special consideration shall be given to the state educational institution established under IC 20-12-61 to be the provider of the training funded under this chapter whenever the state educational institution:

- (1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and**
- (2) is the most cost effective provider.**

(d) The secretary of commerce shall allocate the money in the fund in accordance with subsections (b) and (c)."

Page 2, line 4, delete "(c)" and insert **"(e)"**.

Page 2, line 4, delete "corporation" and insert **"department of workforce development"**.

Page 2, line 4, delete "fund." and insert **"fund using money appropriated from the fund."**

Page 2, line 5, delete "(d)" and insert **"(f)"**.

Page 2, line 7, delete "Interest that".

Page 2, delete line 8.

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Page 2, line 9, delete "(e)" and insert "(g)".

Page 2, line 11, delete "(f)" and insert "(h)".

Page 2, delete lines 16 through 19.

Page 2, line 20, delete "(h)" and insert "(i)".

Page 2, between lines 22 and 23, begin a new paragraph and insert:
"SECTION 2. IC 22-4-10.5-0.5 IS ADDED TO THE INDIANA
CODE AS A **NEW** SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter expires
December 31, 2008.**"

Page 2, line 29, strike "(a) After making the".

Page 2, line 30, strike "deposit required by subsection (b),".

Page 2, line 30, delete "the" and insert "The".

Page 2, line 34, strike "(b)".

Page 2, line 34, strike "Unless the board approves a lesser amount,".

Page 2, strike lines 35 through 39.

Page 3, line 33, delete "IC 22-4-10.5-9;".

Page 3, line 33, delete "IC 22-4-24.5-1." and insert "IC 22-4-24.5-1;
IC 22-4.5-2-5; IC 22-4.5-3-4.".

Page 3, line 34, delete "July 1, 2005:" and insert "**the effective date
of this act:**".

Page 3, line 40, delete "act." and insert "**act, and administered by
the department of workforce development.**".

Page 3, after line 40, begin a new paragraph and insert:

"SECTION 8. **An emergency is declared for this act.**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 536 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 5, Nays 2.

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SENATE MOTION

Madam President: I move that Senator Drozda be added as second author of Engrossed Senate Bill 536.

CLARK

SENATE MOTION

Madam President: I move that Senate Bill 536 be amended to read as follows:

Page 1, line 17, delete "by the Indiana".

Page 2, line 1, delete "economic development corporation".

Page, 2, line 17, delete "(c)." and insert **"(c), after considering recommendations made by the department of workforce development."**

Page 2, line 18, after "The" insert **"corporation shall enter into an agreement with the"**.

Page 2, line 18, delete "shall" and insert **"for the department of workforce development to"**.

Page 2, between lines 29 and 30, begin a new line block indented and insert:

"(4) Interest and penalties collected."

Page 2, line 31, after "expenditures" insert **"for the program established under IC 22-4-10.5"**.

Page 2, line 32, delete "chapter." and insert **"chapter, after considering recommendations made by the department of workforce development."**

Page 2, line 38, after "Sec. 6." insert **"(a)"**.

Page 2, between lines 41 and 42, begin a new paragraph and insert:

"(b) The Indiana economic development corporation shall enter into an agreement with the department of workforce development for the department of workforce development to administer the fund."

Page 4, line 15, delete "development." and insert **"development under an agreement between the Indiana economic development corporation and the department of workforce development."**

(Reference is to SB 536 as printed February 23, 2005.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred Senate Bill 536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Life Long Learning Tax Credit

Sec. 1. As used in this chapter, "account" refers to an account that qualifies as a life long learning account under this chapter.

Sec. 2. As used in this chapter, "credit" refers to a life long learning tax credit granted under this chapter against state tax liability.

Sec. 3. As used in this chapter, "department" refers to the department of workforce development.

Sec. 4. As used in this chapter, "eligible education expense" means a payment for education, including tuition and fees and similar payments, books, supplies, equipment, and tools or supplies that may be retained by the employee after completion of a course of instruction, other than the following:

- (1) Meals, lodging, or transportation.**
- (2) Any course or other education involving sports, games, or hobbies.**

Sec. 5. As used in this chapter, "eligible employee" means the following:

- (1) A full-time employee of a participating employer.**
- (2) A part-time employee of a participating employer, if the part-time employee has the part-time employee's principal place of business with the participating employer in Indiana and the participating employer elects in the participating employer's application to the department under this chapter to include part-time employees in the participating employer's plan.**

Sec. 6. As used in this chapter, "full-time employee" means an individual who:

- (1) is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment; and**

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(2) has the individual's principal place of employment in Indiana with a participating employer.

Sec. 7. As used in this chapter, "participating employer" means a corporation, person, or pass through entity that:

- (1) employs at least one (1) eligible employee; and
- (2) is selected under this chapter to participate in a pilot life long learning tax credit program under this chapter.

Sec. 8. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 9. As used in this chapter, "plan" refers to a life long learning plan that provides for the payment of eligible education expenses through an account.

Sec. 10. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 11. The pilot life long learning tax credit program is established to encourage life long learning practices by eligible employees. The department shall administer the program.

Sec. 12. (a) An eligible employee that makes an employee contribution to an account is eligible for a credit in a taxable year against the employee's state tax liability in the taxable year.

(b) The amount of the credit is equal to the least of the following:

- (1) The employee contribution made by an eligible employee to the account in the taxable year.
- (2) Five hundred dollars (\$500).
- (3) The amount of the credits allocated by the department to the eligible employee for the taxable year.

Sec. 13. (a) A participating employer that makes an employer matching contribution to an account is eligible for a credit in a taxable year against the participating employer's state tax liability in the taxable year.

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(b) The amount of the credit is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the lesser of the following for each account:

(A) The participating employer contribution made to the account of an eligible employee in the taxable year.

(B) Five hundred dollars (\$500).

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The amount of the credit allocated by the department to the participating employer for the taxable year.

Sec. 14. (a) If:

(1) a pass through entity does not have state income tax liability against which the credit provided by this chapter may be applied; and

(2) the pass through entity would be eligible for a credit under this chapter if the pass through entity were a taxpayer;
a shareholder, partner, or member of the pass through entity is entitled to a credit under this chapter.

(b) Subject to this chapter, the amount of the credit to which a shareholder, partner, or member is entitled is equal to:

(1) the credit determined for the pass through entity for the taxable year as if the pass through entity were a taxpayer with state tax liability in the amount of the credit; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 15. (a) If the amount of the credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to subsequent taxable years until the entire credit is used. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 16. To receive the credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the information that the department of state revenue determines is necessary for the

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department of state revenue to determine whether the taxpayer is eligible for the credit.

Sec. 17. To qualify as a life long learning plan under this chapter, the plan must meet all of the following criteria:

- (1) Be in writing.**
- (2) Cover at least all full-time employees of the participating employer and, if the participating employer elects to cover part-time employees under the plan, all part-time employees.**
- (3) Provide for the establishment of an account for each eligible employee to which:**
 - (A) an eligible employee makes contributions for the payment of eligible education expenses; and**
 - (B) the participating employer makes matching contributions on a dollar for dollar basis for the purpose of paying eligible education expenses.**

However, the plan may limit the maximum amount that the participating employer must match. The limitation must uniformly apply to all full-time employees of the employer. If the participating employer elects to have part-time employees participate in the plan, the participating employer may impose a different uniform limitation for part-time employees.

(4) Subject to section 18 of this chapter, provide that the account may be used only to pay eligible education expenses incurred by or on behalf of an eligible employee for education selected at the sole discretion of the eligible employee.

(5) Provide that the availability of the plan does not reduce or substitute for any other education program provided by the participating employer, including the provision, by a participating employer, of courses of instruction for the participating employer's eligible employees (including books, supplies, and equipment).

(6) Provide procedures for dissemination of information about the plan, including the federal and state income tax consequences of the plan.

(7) Provide for reporting to the department of state revenue of the information prescribed by the department of state revenue.

(8) Provide procedures for the allocation of credits certified by the department for the participating employer's eligible employees among the participating employer's eligible employees.

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(9) Be certified by the department as a plan.

Sec. 18. (a) To qualify as a life long learning account under this chapter, the account must meet all the following criteria:

(1) Be established and administered in accordance with a plan.

(2) Subject to this section, be used only to pay eligible education expenses incurred by or on behalf of an eligible employee for education selected at the sole discretion of the eligible employee.

(3) Be held by a trustee or fiduciary, including the treasurer of state, approved by the department.

(b) Money in an account that is contributed by an eligible employee is held in trust for the eligible employee. An eligible employee may withdraw the eligible employee's contribution to the account at any time for any purpose. However, if the amount is not withdrawn to:

(1) pay eligible education expenses; or

(2) transfer the money in the manner prescribed by the department of state revenue to the account of another participating employer;

the individual forfeits any tax benefit that the individual received under this chapter for the amount withdrawn. The department of state revenue shall prescribe a method for recovery of the tax benefit in the taxable year in which the event causing the forfeiture of the tax benefit occurs.

(c) An account may consist of gifts to an account in addition to contributions by an eligible employee or a participating employer. However, a gift to an account may be used only to pay eligible education expenses.

(d) Transfer of an unused employer contribution as an employer contribution to another account does not result in forfeiture of a tax benefit received under this chapter. However, the employer is not eligible for an additional credit for the amount transferred.

Sec. 19. A taxpayer that receives a credit for a contribution to an account is not entitled to a separate deduction for an eligible education expense in the taxable year that the eligible education expense is paid from the account. If the taxpayer deducted the eligible education expense in computing for federal income tax purposes:

(1) federal adjusted gross income in the case of an individual; or

(2) in the case of taxpayers other than an individual:

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(A) federal taxable income (as defined in Section 63 of the Internal Revenue Code) in the case of corporations;

(B) federal life insurance company taxable income (as defined in Section 801 of the Internal Revenue Code) in the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law;

(C) federal taxable income (as defined in Section 832 of the Internal Revenue Code) in the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law; or

(D) federal taxable income (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) in the case of trusts and estates;

the taxpayer shall add the amount of the deduction back in determining state adjusted gross income under IC 6-3-1-3.5 and IC 6-5.5-1-2.

Sec. 20. The department shall establish a program to provide information to participating employers and eligible employees about the life long learning tax credit program established by this chapter.

Sec. 21. (a) The department shall establish a program to certify participating employer and eligible employee contributions to an account as eligible for a credit. The program must provide that the participating employer applies for the credits on behalf of the participating employer and the participating employer's eligible employees. The program may permit an application to be made that covers more than one (1) taxable year.

(b) The total amount of credits approved in a state fiscal year may not exceed the amount transferred in the state fiscal year from the skills 2016 training fund to the state general fund under IC 22-4-24.5-1(c), less any administrative fees retained by the department under subsection (e). Qualifying applicants for a credit that apply to the department in the manner and in the form prescribed by the department shall be certified for a credit in the amount that the applicant estimates will be contributed to the accounts of eligible employees by lottery conducted by the department until the maximum amount of credits allowed under this section for a state fiscal year has been allocated among qualifying applicants. The certification may cover more than one (1) taxable year and need not match the state fiscal year of the transfer from the skills 2016 training fund to the year the credit is

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taken. However, the department may provide a procedure for an applicant that is denied a tax credit solely as a result of the cap imposed by this subsection to be given priority in the award of a credit in a subsequent state fiscal year. An award of the credit must indicate the part of the award that is for participating employer contributions and the part of the award that is available to eligible employees for eligible employee contributions.

(c) The certification of a credit under this section applies only to contributions made after the date of the certification.

(d) If the credits allocated to a participating employer or an eligible employee are not used as provided in the certification, the department may reallocate the unused credits to another qualified applicant in the order determined by the department.

(e) The department may retain from the amount transferred in a state fiscal year from the skills 2016 training fund to the state general fund under IC 22-4-24.5-1(c) an administrative allowance to reimburse the department for administering the pilot life long learning tax credit program.

Sec. 22. (a) The department shall provide for a study of the pilot life long learning tax credit program established by this chapter. The evaluation must include a fiscal analysis of the program, including an assessment of the effectiveness of the provisions of this chapter to:

- (1) retain jobs;
- (2) increase income; and
- (3) increase the tax base.

The study must measure the extent to which life long learning practices are increased. The analysis may include a review of the practices and experiences of other states or political subdivisions with laws similar to this chapter.

(b) The department shall require employers applying for a credit under this chapter to provide the information that the department determines is necessary to carry out the study required by this section.

(c) The department shall report to the legislative council, not later than November 1 of each year in an electronic format under IC 5-14-6, on the progress of its study.

Sec. 23. Subject to the approval of the budget agency, the department may receive and accept gifts and other donations from any public or private source in its administration of the program."

Page 3, between lines 21 and 22, begin a new paragraph and insert:
"SECTION 6. IC 22-4-24.5-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The skills 2016 training fund is established to do the following:

- (1) Administer the costs of the skills 2016 training program established by IC 22-4-10.5.
- (2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.
- (3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) ~~Fifty-five~~ **Fifty-four** percent ~~(55%)~~ **(54%)** of the money in the fund shall be allocated to the state educational institution established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:

- (1) An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection (a). However, the amount so allocated may not exceed fifteen percent (15%) of the total amount of money allocated under this subsection.
- (2) After the allocation made under subdivision (1), fifty percent (50%) shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.
- (3) After the allocation made under subdivision (1), fifty percent (50%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(c) One percent (1%) of the money in the fund shall be transferred to the state general fund to replace revenue lost as the result of life long learning credits granted under IC 6-3.1-29 plus any administrative fees retained by the department of workforce development under IC 6-3.1-29-21(e).

~~(c)~~ **(d)** The remainder of the money in the fund shall be allocated as follows:

- (1) An amount to be determined annually shall be set aside for the payment of refunds from the fund.
- (2) The remainder of the money in the fund after the allocations provided for in ~~subsection~~ **subsections (b) and (c)** and subdivision (1) shall be allocated to other incumbent worker training programs.

~~(d)~~ **(e)** The fund shall be administered by the board. However, all

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disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

~~(e)~~ **(f)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

~~(f)~~ **(g)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

~~(g)~~ **(h)** The fund consists of the following:

- (1) Assessments deposited in the fund.
- (2) Earnings acquired through the use of money belonging to the fund.
- (3) Money received from the fund from any other source.
- (4) Interest earned from money in the fund.
- (5) Interest and penalties collected.

~~(h)~~ **(i)** All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

~~(i)~~ **(j)** Not later than April 30 each year, the department shall prepare an annual report that shows the amount of unobligated money in the fund on that date.

~~(j)~~ **(k)** The incumbent workers training board may reallocate the unobligated money shown in the annual report required by subsection ~~(i)~~ **(j)** in accordance with subsections (b) and ~~(e)~~(2): **(d)(2)**.

~~(k)~~ **(l)** Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter."

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE JULY 1, 2005] IC 6-3.1-29, as added by this act, applies only to taxable years beginning after December 31, 2005."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 536 as reprinted March 1, 2005.)

BORROR, Chair

Committee Vote: yeas 6, nays 5.

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